

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Jhonali One Eye El-Bey, et al.,

Plaintiffs,

v.

Case No. 1:21-cv-574

The United States of America, et al.,

Judge Michael R. Barrett

Defendants.

ORDER

This matter is before the Court on the Magistrate Judge's February 9, 2022 Report and Recommendation ("R&R"). (Doc. 35).

The Court gave Plaintiff proper notice under Federal Rule of Civil Procedure 72(b), including notice that he would waive further appeal if he failed to file timely objections to the R&R. (*Id.* PageID 65); *see United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981). On March 2, 2022, and May 6, 2022, Plaintiff mailed the Court documents in this case number that are titled "Notice in Opposition to the Motion(s) to Dismiss filed February 9, 2022" (Doc. 36) and "Motion requesting leave of Court to properly oppose the Court's ruling to stay this matter in complaint under the collateral order doctrine mode" (Doc. 41). Out of an abundance of caution, the Court will construe these filings as timely objections to the February 9, 2022 R&R.

When the Court receives timely objections to a magistrate judge's R&R on a dispositive matter, the district judge "must determine de novo any part of the magistrate judge's disposition that has been properly objected to." FED. R. CIV. P. 72(b)(3). After review, the district judge "may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions."

Id.; see 28 U.S.C. § 636(b)(1).

The Court finds Plaintiff's objections to be a general disagreement with the February 9, 2022 R&R, which is insufficient to direct the Court's attention to a specific issue with the recommendation of dismissal of his claims except for his unlawful arrest and detention claims against unknown "Clinton County Sheriff/Deputy in his individual capacity." (Docs. 36, 41); see *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (holding that the objections of a petitioner appearing pro se will be construed liberally); *Aldrich v. Bock*, 327 F.Supp. 2d 743, 747 (E.D. Mich. 2004) ("An 'objection' that does nothing more than state a disagreement with a magistrate [judge]'s suggested resolution, or simply summarizes what has been presented before, is not an 'objection' as that term is used in this context.").

After a de novo review of the filings in this matter, the Court finds that the Magistrate Judge correctly determined that this case should be dismissed with the exception of Plaintiff's unlawful arrest and detention claims against unknown "Clinton County Sheriff/Deputy in his individual capacity." See FED. R. CIV. P. 72(b)(3). The Court will adopt the R&R in its entirety.

In light of the foregoing, it is hereby **ORDERED** that the R&R (Doc. 35) is **ADOPTED**. Consistent with the recommendations therein, it is **ORDERED** that

- the Amended Complaint is **DISMISSED with prejudice**, with the exception of Plaintiff's unlawful arrest and detention claims against unknown "Clinton County Sheriff/Deputy in his individual capacity," and those claims are **STAYED**;
 - The stay **SHALL** remain in effect until the criminal proceeding in

Case No. 1:21-cr-110 is resolved, including expiration of the time to file any appeal.

- If an appeal is filed, the stay **SHALL** remain in effect until the appeal process is resolved, including expiration of the time for filing a petition for writ of certiorari with the United States Supreme Court.
- If plaintiff wishes to proceed in this action following completion of the criminal proceedings against him, he **MUST** file a motion to reopen at that time.
- For administrative purposes only, the case **SHALL** be closed during the pendency of the stay.
- The Clerk of Court is **DIRECTED** to add defendant unknown Clinton County Sheriff/Deputy in his individual capacity to the docket sheet in this case.
- Plaintiff's pending motions and submissions (Docs. 6; 12-14; 20; 27-30) are **DENIED as MOOT** subject to refiling if and when appropriate after any stay is lifted.
- The Court **CERTIFIES** that an appeal of this Order adopting the R&R would not be taken in good faith.

IT IS SO ORDERED.

_____/s Michael R. Barrett_____
Michael R. Barrett, Judge
United States District Court